UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Hunton & Williams, LLP
1900 K Street, N.W. Suite 1200
Washington, D.C. 20006-1109

COPY MAILED

DEC 12 2007

OFFICE OF PETITIONS

In re Application of
Leonard
Application No. 09/722,049
Filed: Nov. 27, 2000
Docket No. 57761.000124

: DECISION REGARDING PTA

This decision is in response to applicants' "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" timely[1] filed on August 6, 2006 requesting that the USPTO adjust the patent term adjustment determination at the time of the mailing of the notice of allowance from a determination of ZERO(0) days to a determination of six hundred and sixteen (6161) days.

Applicant's application for Patent Term Adjustment is **GRANTED**. The Office will *adjust the PAIR calculation* at the time of the mailing of the notice of allowance to reflect this decision, a 616 day adjustment.

Applicants assert that the Office erred in assessing a 779 day delay by applicant in response to the non-final rejection that was mailed on November 5, 2004. Applicant asserts that the non-final rejection had the clock restarted on February 26, 2007 and applicant had three months from March 26, 2007 to reply without an loss of PTA for failing to meet the requirement of 37 CFR 1.704(b). Applicants assert that they responded on March 26, 2007 within the three-month allotment.

Applicant's arguments are persuasive. The Office notes that the PALM records reflect that the Office mailed a notice of restarted response period along with the interview summary on February 26, 2007. Accordingly, the applicant was entitled to three months to respond from the date that the clock was restarted. The Office restarted the period of response on February 26, 2007. Applicant replied on March 26, 2007, within three months. Accordingly, applicant did not fail to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(b). The overall Office delay was seven hundred and eight days. The delays included 696 days pursuant to 37 CFR 1.702(a)(1) and 12 days under 37 CFR 1.702(a)(2). Applicant delayed by period of ninety-two (92) days under 37 CFR 1.704(b). Accoridngly, overall the correct amount of PTA at the time of the mailing of the notice of allowance is 616 (708-92=616) days.

After the mailing of this decision, the Office will forward the file to the Office of Patent Publication for a prompt issuance of the patent. Any Office delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b) or applicants delays pursuant to 37 CFR 1.704(c)(10) will be adjusted at the time of the mailing of the issue notification letter that is mailed to applicants approximately

[1]Issue fee paid on August 6, 2006.

three weeks prior to the issuance of the patent.

The applicants have submitted the $200.00 fee pursuant to 37 CFR 1.18(e). No additional fees are necessary in deciding this petition.

Any questions concerning this letter should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Deputy Commissioner
For Patent Examination Policy

cc: Adjusted Pair Calculation

Day : Tuesday
Date: 12/11/2007

PALM INTRANET

Time: 15:05:47

PTA Calculations for Application: 09/722049			
Application Filing Date:	11/27/2000	PTO Delay (PTO):	708
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	871
Post-Issue Petitions:	0	Total PTA (days):	616
PTO Delay Adjustment:	779		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
55	12/11/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	779		
48	05/08/2007	MAIL NOTICE OF ALLOWANCE			
47	05/08/2007	MAIL EXAMINER'S AMENDMENT			
46	05/08/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
45	05/03/2007	ISSUE REVISION COMPLETED			
44	05/03/2007	DOCUMENT VERIFICATION			
43	05/02/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	05/02/2007	CASE DOCKETED TO EXAMINER IN GAU			
41	04/25/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	04/30/2007	EXAMINER'S AMENDMENT COMMUNICATION			
39	04/30/2007	NOTICE OF ALLOWABILITY			
38	04/19/2007	DATE FORWARDED TO EXAMINER			
37	03/26/2007	RESPONSE AFTER NON-FINAL ACTION		779	26
36	02/26/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
35	02/01/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
34	02/26/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
33	02/01/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	12/21/2006	MISCELLANEOUS INCOMING LETTER			
30	12/21/2006	MISCELLANEOUS INCOMING LETTER			
29	02/22/2006	MISCELLANEOUS INCOMING LETTER			
28	08/08/2005	CASE DOCKETED TO EXAMINER IN GAU			

27	06/03/2005	MISCELLANEOUS INCOMING LETTER			
26	11/05/2004	MAIL NON-FINAL REJECTION	12		22
25	11/01/2004	NON-FINAL REJECTION			
24	08/24/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	08/24/2004	DATE FORWARDED TO EXAMINER			
22	06/24/2004	RESPONSE AFTER NON-FINAL ACTION		92	18
21	06/24/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	06/24/2004	WORKFLOW INCOMING PETITION IFW			
19	06/24/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	12/24/2003	MAIL NON-FINAL REJECTION	696		-1
17	12/12/2003	NON-FINAL REJECTION			
16	10/24/2003	CASE DOCKETED TO EXAMINER IN GAU			
15	08/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	08/19/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	08/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	06/06/2003	CASE DOCKETED TO EXAMINER IN GAU			
11	06/04/2003	TRANSFER INQUIRY TO GAU			
10	04/22/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	11/20/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	04/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	08/03/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	05/01/2001	APPLICATION DISPATCHED FROM OIPE			
5	04/27/2001	APPLICATION IS NOW COMPLETE			
4	04/02/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	03/30/2001	CORRESPONDENCE ADDRESS CHANGE			
2	12/22/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/27/2000	INITIAL EXAM TEAM NN			

Search Another: Application# [] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page